

Senate File 204 - Introduced

SENATE FILE 204

BY BOLKCOM

A BILL FOR

1 An Act relating to physical restraint and seclusion practices,
2 training, and prohibitions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256.9, Code 2017, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 61. Develop and approve, in cooperation
4 with the board of educational examiners and the area education
5 agencies, a training program that includes but is not limited
6 to the following:

7 *a.* A curriculum for practitioners and paraeducators
8 that includes evidence-based techniques and strategies for
9 preventing the use of restraint and seclusion by schools;
10 practices that keep school personnel and students safe
11 if physical restraint is necessary; positive behavioral
12 interventions, supports, and strategies; behavioral
13 antecedents, functional behavioral assessments, de-escalation
14 of challenging behaviors, and conflict prevention and
15 management; safe physical escort; first aid, including the
16 signs of medical distress, and cardiopulmonary resuscitation.

17 *b.* Certification in state restraint and seclusion policies
18 and procedures.

19 Sec. 2. NEW SECTION. 280.21C **Seclusion and restraint**
20 **interventions — requirements.**

21 1. *Definitions.* For purposes of this section, unless the
22 context otherwise requires:

23 *a.* “*Chemical restraint*” means a drug or medication used on
24 a student to control behavior or restrict freedom of movement
25 that is not prescribed and administered by a licensed physician
26 or a qualified health care professional prescriber for the
27 standard treatment of a student’s medical or psychiatric
28 condition.

29 *b.* “*Mechanical restraint*” means the use of a device as
30 a means of restricting a student’s freedom of movement.

31 “*Mechanical restraint*” does not mean a device used by trained
32 school personnel, or used by a student, for the specific and
33 approved therapeutic or safety purposes for which such a
34 device was designed and, if applicable, prescribed, including
35 restraints for medical immobilization, adaptive devices or

1 mechanical supports used to allow greater freedom of mobility
2 than would be possible without the use of such devices or
3 mechanical supports, and vehicle safety restraints when used as
4 intended during the transport of a student in a moving vehicle.

5 *c. "Physical escort"* means the temporary touching or holding
6 of the hand, wrist, arm, shoulder, waist, hip, or back for the
7 purpose of inducing a student to move to a safe location.

8 *d. "Physical restraint"* means a personal restriction
9 that immobilizes or reduces the ability of a student to move
10 the student's arms, legs, body, or head freely. *"Physical*
11 *restraint"* does not include a physical escort, mechanical
12 restraint, or chemical restraint.

13 *e. "Positive behavioral interventions and supports"* means
14 a school-wide systematic approach to embed evidence-based
15 practices and data-driven decision-making to improve school
16 climate and culture in order to achieve improved academic
17 and social outcomes, and increase learning for all students,
18 including those students with the most complex and intensive
19 behavioral needs; and which encompasses a range of systemic
20 and individualized positive strategies to reinforce desired
21 behaviors, diminish the reoccurrence of challenging behaviors,
22 and teach appropriate behaviors to students.

23 *f. "Seclude" or "seclusion"* means the involuntary
24 confinement of a student alone in a room or area from which the
25 student is physically prevented from leaving. *"Seclude" or*
26 *"seclusion"* does not include a time-out.

27 *g. "Time-out"* means a behavior management technique that
28 may involve the separation of a student from the group, in
29 a nonlocked setting, for the purpose of calming, and may be
30 written into an individualized education program. *"Time-out"*
31 does not mean seclusion.

32 *2. Actions prohibited — exceptions.*

33 *a.* Except as provided in this section, a school employee, a
34 person under a contract to provide services to the school, or a
35 volunteer shall not impose on any student any of the following:

- 1 (1) Seclusion.
- 2 (2) Mechanical restraint.
- 3 (3) Chemical restraint.
- 4 (4) Aversive behavioral interventions that compromise
- 5 health or safety.
- 6 (5) Physical restraint that is life-threatening, including
- 7 but not limited to physical restraint that restricts breathing.
- 8 (6) Physical restraint if contraindicated based on the
- 9 student's disability, health care needs, or medical or
- 10 psychiatric condition, as documented in a health care directive
- 11 or medical management plan, a behavior intervention plan, an
- 12 individualized education program, or other relevant record made
- 13 available to the school district, accredited nonpublic school,
- 14 or area education agency.
- 15 b. Physical restraint of a student, using only the amount
- 16 of force necessary to protect the student or others from
- 17 the threatened physical harm, may be implemented by school
- 18 personnel qualified under subsection 3 only under the following
- 19 conditions:
 - 20 (1) The student's behavior poses an immediate danger of
 - 21 serious physical harm to self or others.
 - 22 (2) The physical restraint does not interfere with the
 - 23 student's ability to communicate in the student's primary
 - 24 language or mode of communication.
 - 25 (3) Less restrictive interventions have been ineffective in
 - 26 ceasing the immediate danger of serious physical harm to the
 - 27 student or others, except in the case of a clearly unavoidable
 - 28 emergency circumstance posing an immediate danger of serious
 - 29 physical harm.
 - 30 (4) The physical restraint is implemented in a manner that,
 - 31 based on research and evidence, is safe, appropriate, and
 - 32 proportionate to and sensitive to the student's severity of
 - 33 behavior, chronological and developmental age, physical size,
 - 34 gender, physical condition, medical condition, psychiatric
 - 35 condition, and personal history, including any history of

1 physical or sexual abuse or other trauma.

2 *c.* The use of physical restraint shall immediately cease
3 under any of the following conditions:

4 (1) A medical condition occurs putting the student at risk
5 of harm.

6 (2) The student's behavior no longer poses an immediate
7 danger of serious physical harm to the student or others.

8 (3) Less restrictive interventions would be effective in
9 ceasing such immediate danger of serious physical harm.

10 *d.* Upon the initial implementation of physical restraint
11 of a student, school personnel shall contact key identified
12 school employees for help from within the attendance center
13 either immediately at the onset of an emergency situation or,
14 if it is reasonable under the particular circumstances for
15 school personnel to believe that diverting attention from the
16 situation would increase the risk to the safety of the student
17 or to the safety of others, as soon as possible once the
18 circumstances no longer support such a belief.

19 *e.* If, in an emergency situation in which a student's
20 behavior poses an immediate danger of serious physical harm
21 to the student or others, less restrictive interventions
22 have proven ineffective in ceasing the immediate danger, a
23 student may be placed in seclusion under all of the following
24 conditions:

25 (1) The seclusion does not interfere with the student's
26 ability to breathe or communicate.

27 (2) A practitioner, paraeducator, or health professional
28 carefully, continuously, and visually monitors the student
29 while the student is in seclusion.

30 *f.* Emergency seclusion shall not be used longer than
31 necessary, based on research and evidence, to allow a student
32 to regain composure to the point that the emergency situation
33 necessitating the use of emergency seclusion ceases and
34 generally no longer than fifteen minutes for an elementary
35 school student or twenty minutes for a secondary school

1 student. If an emergency seclusion lasts longer than fifteen
2 minutes for an elementary school student or twenty minutes for
3 a secondary school student, the school district or nonpublic
4 school must provide for the following:

5 (1) Additional support, which may include a change of
6 staff, or introducing a nurse, specialist, or additional key
7 identified school employees.

8 (2) Documentation to explain the extension beyond the time
9 period specified in this paragraph "f".

10 3. *Qualifications of individuals imposing physical restraint*
11 *or seclusion.* School personnel imposing physical restraint or
12 seclusion on a student in accordance with this section shall
13 meet the following conditions:

14 a. Be trained and certified under a training program
15 approved under section 256.9, subsection 61, except in the case
16 of clearly unavoidable emergency circumstances when trained and
17 certified school personnel are not immediately available due to
18 the unforeseeable nature of the emergency circumstance. The
19 principal of an attendance center shall identify one or more
20 key school employees who shall be trained and certified under a
21 training program approved under section 256.9, subsection 61.

22 b. Engage in continuous visual monitoring of the student as
23 provided in subsection 2, paragraph "e".

24 4. *Prohibition on use of physical restraint or seclusion as*
25 *planned intervention.*

26 a. Except as provided in paragraph "b", the use of physical
27 restraint or seclusion as a planned intervention shall not be
28 written into a student's individualized education program or
29 any other planning document prepared for an individual student
30 unless agreed upon by school administrators, the parent or
31 guardian of the student, and the individualized education team
32 or other key identified school employees and the following
33 conditions have been met:

34 (1) All parties to the agreement have considered less
35 restrictive means to address behavioral concerns that would

1 meet the emergency standards described in subsection 2,
2 paragraph "b".

3 (2) The individualized education team or other key
4 identified school employees have conducted a research-based,
5 individualized functional behavioral assessment and implemented
6 a corresponding positive intervention plan that addresses
7 preventative measures used to reduce or prevent emergencies and
8 is written into the student's individualized education program
9 or a planning document prepared for the individual student.

10 5. *School responsibilities.* The board of directors of each
11 school district and the authorities in charge of a nonpublic
12 school shall do the following:

13 a. Establish policies and procedures that ensure school
14 personnel and parents and guardians are aware of the state
15 board of education's rules, the department's guidance, and
16 the school district's or school's policies, as appropriate,
17 regarding seclusion and physical restraint.

18 b. Establish policies and procedures to be followed after
19 each incident involving the imposition of physical restraint
20 or seclusion upon a student, including but not limited to the
21 following:

22 (1) Procedures to provide to the parent or guardian of
23 the student, with respect to each such incident, a verbal or
24 electronic communication on the same day as each such incident
25 and, within twenty-four hours of each such incident, written
26 notification.

27 (2) Procedures to ensure that the person who imposed
28 a physical restraint or seclusion, the adult witnesses, a
29 representative of the administration, a school mental health
30 professional, and at least one family member or the guardian
31 of the student participate in a debriefing session. The
32 procedures shall ensure that the student who was physically
33 restrained or secluded is given the opportunity to discuss the
34 student's perspective about the event with a trusted adult who
35 will communicate to the debriefing session group.

1 c. The debriefing session described in paragraph "b",
2 subparagraph (2), shall occur as soon as practicable, but
3 not later than five school days following the imposition of
4 physical restraint or seclusion unless it is delayed by written
5 mutual agreement of the parent or guardian and the school
6 district or nonpublic school.

7 (1) Each adult witness in the proximity of the student
8 immediately before and during the time of the physical
9 restraint or seclusion but not directly involved shall submit
10 the witness's observations in writing for the debriefing
11 session.

12 (2) The debriefing session shall include the following:

13 (a) Identification of antecedents to the physical restraint
14 or seclusion and consideration of relevant information in the
15 student's records, and such information from teachers, other
16 professionals, the parent or guardian, and student.

17 (b) Planning to prevent and reduce reoccurrence of the use
18 of physical restraint or seclusion, including consideration
19 of the results of any functional behavioral assessments,
20 whether positive behavior plans were implemented with
21 fidelity, recommendations of appropriate positive behavioral
22 interventions and supports to assist school personnel
23 responsible for the student's individualized educational
24 program or other planning document prepared for the individual
25 student.

26 (c) A plan to have a functional behavioral assessment
27 conducted, reviewed, or revised by qualified professionals, the
28 parent or guardian, and the student.

29 (3) Information communicated by a student attending a
30 debriefing session in accordance with this subsection shall not
31 be used against the student in any disciplinary, criminal, or
32 civil investigation or proceeding.

33 6. *Prohibition against retaliation.* The board of directors
34 of a school district and the authorities in charge of a
35 nonpublic school, and the employees of such school district

1 and first aid, including the signs of medical distress, and
2 cardiopulmonary resuscitation.

3 DEFINITIONS. The bill defines "chemical restraint" to mean
4 a drug or medication used on a student to control behavior
5 or restrict freedom of movement that is not prescribed and
6 administered by a licensed physician or a qualified health
7 care professional prescriber for the standard treatment of
8 a student's medical or psychiatric condition; "mechanical
9 restraint" to mean the use of devices as a means of restricting
10 a student's freedom of movement, but not devices used by
11 trained school personnel or a student for therapeutic or
12 safety purposes for which such devices were designed and, if
13 applicable, prescribed.

14 "Physical escort" means the temporary touching or holding
15 of the hand, wrist, arm, shoulder, waist, hip, or back for
16 the purpose of inducing a student to move to a safe location;
17 "physical restraint" means a personal restriction that
18 immobilizes or reduces the ability of an individual to move the
19 individual's arms, legs, body, or head freely, but does not
20 include a physical escort, mechanical restraint, or chemical
21 restraint; "positive behavioral interventions and supports"
22 means a school-wide systematic approach to embed evidence-based
23 practices and data-driven decision-making to improve school
24 climate and culture in order to achieve improved academic
25 and social outcomes, and increase learning for all students,
26 and which encompasses a range of systemic and individualized
27 positive strategies to reinforce desired behaviors, diminish
28 reoccurrence of challenging behaviors, and teach appropriate
29 behaviors to students; "seclude" or "seclusion" means the
30 involuntary confinement of a student alone in a room or area
31 from which the student is physically prevented from leaving,
32 but does not include a time-out; and "time-out" means a
33 behavior management technique that may involve the separation
34 of a student from the group, in a nonlocked setting, for the
35 purpose of calming, and may be written into an individualized

1 education program.

2 ACTIONS PROHIBITED — EXCEPTIONS. Except in emergency
3 situations, the bill prohibits a school employee, person under
4 contract to provide services to the school, or volunteer from
5 imposing on any student seclusion, mechanical restraint,
6 chemical restraint, aversive behavioral interventions that
7 compromise health or safety, physical restraint that is
8 life-threatening or contraindicated based on the student's
9 documented disability, health care needs, or medical or
10 psychiatric condition.

11 Physical restraint, using only the amount of force necessary
12 to protect the student or others from the threatened harm,
13 may be implemented only if the student's behavior poses
14 immediate danger of serious physical harm to self or others,
15 the physical restraint does not interfere with the student's
16 ability to communicate, less restrictive interventions have
17 been ineffective, except in the case of a clearly unavoidable
18 emergency circumstance, and the physical restraint is performed
19 in a manner that is safe, appropriate, and proportionate to and
20 sensitive to the student's severity of behavior, chronological
21 and developmental age, physical size, gender, physical
22 condition, medical condition, psychiatric condition, and
23 personal history, including any history of physical or sexual
24 abuse or other trauma.

25 The use of physical restraint must immediately cease when
26 a medical condition occurs putting the student at risk of
27 harm, the student's behavior no longer poses immediate danger
28 of serious physical harm to the student or others, and less
29 restrictive interventions would be effective in stopping such
30 immediate danger of serious physical harm.

31 Upon the initial implementation of physical restraint,
32 school personnel must contact key identified employees for help
33 from within the attendance center either immediately at the
34 onset of an emergency situation or as soon as possible.

35 Seclusion may be used in an emergency situation in which a

1 student's behavior poses immediate danger of serious physical
2 harm to the student or others and restrictive interventions
3 have proven ineffective in ceasing the immediate danger.
4 However, the seclusion cannot interfere with the student's
5 ability to breathe or communicate, and a practitioner,
6 paraeducator, or health professional must carefully,
7 continuously, and visually monitor the student while the
8 student is in seclusion.

9 Emergency seclusion shall not be used longer than necessary,
10 generally no longer than 15 minutes for an elementary school
11 student or 20 minutes for a secondary school student. For
12 longer periods, schools must provide for additional support,
13 which may include a change of staff, or introducing a nurse,
14 specialist, or additional key identified school employees, and
15 documentation to explain the extension beyond the time limit.

16 **QUALIFICATIONS OF INDIVIDUALS IMPOSING PHYSICAL RESTRAINT**
17 **OR SECLUSION.** School personnel imposing physical restraint
18 or seclusion must engage in continuous visual monitoring of
19 the student and, except in the case of clearly unavoidable
20 emergency circumstances when school personnel trained and
21 certified are not immediately available, must be trained and
22 certified in state physical restraint and seclusion policies
23 and procedures. The school principal must identify at least
24 one or more school employees who shall be trained and certified
25 under a training program approved by the department.

26 **PROHIBITION ON THE USE OF PHYSICAL RESTRAINT OR SECLUSION**
27 **AS PLANNED INTERVENTION.** The use of physical restraint or
28 seclusion as a planned intervention shall not be written into
29 a student's education plan or any other planning document for
30 an individual student unless agreed upon in writing by school
31 administrators, the parent or guardian of the student, and
32 the individualized education team or other key identified
33 school employees; the parties to the agreement considered less
34 restrictive means to address behavioral concerns that would
35 meet the emergency standard; and the individualized education

1 team or other key identified school employees have conducted a
2 research-based, individualized functional behavioral assessment
3 and implemented a corresponding positive intervention plan
4 that addresses preventative measures used to reduce or prevent
5 emergencies and is written into the student's individualized
6 education program or other planning document prepared for the
7 individual student.

8 SCHOOL RESPONSIBILITIES. The board of directors of each
9 school district and the authorities in charge of a nonpublic
10 school are to establish policies and procedures that ensure
11 school personnel and parents and guardians are aware of the
12 state and local rules, guidance, or policies, as appropriate,
13 regarding seclusion and restraint.

14 School districts and nonpublic schools also must establish
15 policies and procedures to be followed after each incident
16 of physical restraint or seclusion, verbal or electronic
17 notification of the parent or guardian on the same day as the
18 incident, followed by written notification within 24 hours of
19 the incident; procedures to ensure that parties to the incident
20 participate in a debriefing session; and procedures for giving
21 the student who was restrained or secluded the opportunity to
22 discuss the event with a trusted adult who will communicate to
23 the debriefing session group.

24 The debriefing session shall occur as soon as practicable,
25 but not later than five school days following the imposition of
26 physical restraint or seclusion unless it is delayed by written
27 mutual agreement.

28 Adult witnesses who were not directly involved in the
29 incident shall submit their observations in writing for the
30 debriefing session. The debriefing session shall include
31 identification of antecedents to the physical restraint or
32 seclusion and consideration of relevant information in the
33 student's records; planning to prevent and reduce reoccurrence
34 of the use of physical restraint or seclusion; a plan to have
35 a functional behavioral assessment conducted, reviewed, or

1 revised by qualified professionals, the parent or guardian,
2 and the student; and, when a student attends a debriefing
3 session, information communicated by the student may not be
4 used against the student in any disciplinary, criminal, or
5 civil investigation or proceeding.

6 PROHIBITION AGAINST RETALIATION. School districts and
7 nonpublic schools, and their employees, are prohibited from
8 retaliating against any person for having reported or having
9 provided information regarding a violation of the bill, or
10 a violation of the rules adopted by the state board for the
11 implementation of the bill.

12 STATE MANDATE. The bill may include a state mandate as
13 defined in Code section 25B.3. The bill requires that the
14 state cost of any state mandate included in the bill be
15 paid by a school district from state school foundation aid
16 received by the school district under Code section 257.16. The
17 specification is deemed to constitute state compliance with
18 any state mandate funding-related requirements of Code section
19 25B.2. The inclusion of this specification is intended to
20 reinstate the requirement of political subdivisions to comply
21 with any state mandates included in the bill.